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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,808	12/21/2000	Ron Pinkus	111039-00110	6423
27557 7590 08/20/2008 BLANK ROME LLP 600 NEW HAMPSHIRE AVENUE, N.W. WASHINGTON, DC 20037				
EXAMINER THEIN, MARIA TERESA T				
ART UNIT		PAPER NUMBER		
3627				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/740,808

Applicant(s)

PINKUS, RON

Examiner

MARISSA THEIN

Art Unit

3627

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C2)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 23, 2008 has been entered.

Response to Amendment

Applicant's "Request for Continued Examination" filed on May 23, 2008 has been considered.

Claims 1-2 have been amended. Claims 1-10 and 12-15 remain pending in this application and an action on the merits follow.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-10 and 12-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1 and 2 recite the phrase

"automatically setting a timer" which is not supported in the specification. Claims 2-10 and 12-15 depend on claims 1-2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-7, 9-10, and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,446,049 to Janning et al. and in view of U.S. Patent Application Publication No. 2002/0111768 to Ghorayeb et al.

Regarding claims 1-2 and 14-15, Janning discloses a plurality of fuel dispensers (col. 6, lines 19-21; col. 8, lines 10-12), each dispenser having at least one antenna and at least one vehicle presence detector performing a detection of a vehicle (col. 6, lines 22-29; Figure 2; col. 7, lines 60-62; col. 7, lines 11-25; col. 8, lines 4-19); a controller reading information from a tag connected to the vehicle when the vehicle is detected by said at least one vehicle presence detector (col. 6, lines 29-36; col. 8, lines 4-19); and a point of sale computer (col. 6, lines 45-47). Furthermore, Janning discloses a tag interrogator (col. 8, lines 20-28; col. 8, lines 53-56).

However, Janning does not explicitly disclose wherein the stationary vehicle is detected by: automatically setting a timer, detecting the vehicle while said timer is running, determining whether the timer has been exceeded when the vehicle is detected, and if the timer has been exceeded, determining that the vehicle is stationary.

Janning discloses a cashless business transaction system comprising: a constant frequency generator that generates a constant frequency signal, a phase modulator varies the instantaneous phase of the constant frequency signal based on the digital information, and a resonant circuit including an antenna averages the phase modulated signal to simulate a frequency modulated signal that includes the digital information (col. 3, lines 45-52). Janning discloses a dispenser transceiver receives signals for predetermined time duration in an attempt to receive an acknowledgement of the interrogation signal (col. 8, lines 24-28). Once the receive cycle of a poll has completed, the received information, if any, is correlated with the pre-established acknowledgement sequence in accordance with known techniques to determine whether a receptacle transceiver is present (col. 8, lines 28-32).

Ghorayeb, on the other hand, teaches wherein the stationary vehicle is detected by: automatically setting a timer, detecting the vehicle while said timer is running, determining whether the timer has been exceeded when the vehicle is detected, and if the timer has been exceeded, determining that the vehicle is stationary (paragraph 8; paragraph 12; paragraph 26; paragraph 41; paragraph 42; Figure 3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of Janning, to include wherein the stationary vehicle is detected by: automatically setting a timer, detecting the vehicle while said timer is running, determining whether the timer has been exceeded when the vehicle is detected, and if the timer has been exceeded, determining that the vehicle is stationary, as taught by Ghorayeb, in order to detect the vehicle that arrives at a

particular location next to the timing meter device, thus producing a signal which activates the timing meter device indicating that the vehicle is legal (Ghorayeb, paragraph 41).

Regarding claims 3, 5-7, 9-10, and 12-13, Janning discloses a unique customer identification number (col. 9, lines 36-40) (**claim 3**); the controller is connected to the point of sale device (**claim 5**) (col. 6, lines 43-47); a network host receiving the information from the point of sale device, linking the information to a customer's account and authorizing a transaction (**claim 6**) (col. 6, lines 43-53; col. 10, lines 21-26); the point of sale device activates the first dispenser after a transaction has been authorized (**claim 7**) (col. 6, lines 43-53; col. 10, lines 21-26); tag is a sticker radio frequency identification tag (col. 7, lines 15-25; col. 6, lines 8-14) (**claim 9**); wherein before activating the first dispenser the point of sale device validates the tag and offers a customer an option to pay through an account associated with the customer (**claim 10**) (col. 9, lines 28-52; col. 9, line 59 – col. 10, line 7; col. 10, lines 21-26); wherein data is written to the tag for authentication (col. 28, lines 33-39; col. 29, lines 48-58) (**claim 12**); wherein data is written to the tag with information to be carried with the tag for use in future transaction (col. 7, lines 30-35; col. 7, lines 45-56) (**claim 13**).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,446,049 to Janning et al. and U.S. Patent Application Publication No. 2002/0111768 to Ghorayeb et al. as applied to claim 2 above, and further in view of U.S. Patent No. 6,343,241 to Kohut et al. Janning and Ghorayeb substantially

discloses the claimed invention, however, the combination does not disclose the customs frequent purchase information.

Kohut, on the other hand, teaches the customs frequent purchase information (col. 8, lines 45-55).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Janning and Ghorayeb, to include the customers frequent purchase information, as taught by Kohut, in order to change or add data to the transponder (tag) for business and security purposes (Kohut, col. 8, lines 45-47).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,446,049 to Janning et al. and U.S. Patent Application Publication No. 2002/0111768 to Ghorayeb et al. as applied to claim 2 above, and further in view of U.S. Patent No. 6,157,871 to Terranova. Janning and Ghorayeb substantially discloses the claimed invention, however, the combination does not disclose a customer enters a personal identification number in the point of sale device to authorize transaction.

Terranova, on the other hand, teaches the customer enters a personal identification number in the point of sale device to authorize transaction (col. 29, lines 43-51).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Janning and Ghorayeb, to include the customer enters a personal identification number in the point of sale device

to authorize transaction, as taught by Terranova, in order to complete a transaction (Terranova, col. 27, lines 56-57).

Response to Arguments

Applicant's arguments filed May 23, 2008 have been fully considered but they are not persuasive.

Applicant remarks that "Janning does not disclose a vehicle presence detector".

The Examiner does not agree. Janning discloses a dispenser transceiver 22 (Figure 1) which is associated with the fuel vending system, specifically, the dispenser transceiver is associated with the dispenser which includes the hose and nozzle that is part of the fuel vending system (col. 6, lines 18-29). The dispenser transceiver 22 determines whether a receptacle transceiver 50 is sufficient proximity of the dispenser to begin a transaction (col. 8, lines 8-10). The receptacle transceiver 50 is mounted near receptacle 51 of a vehicle (Figure 1) to facilitate radio communication with the dispenser transceiver 22 (Figure 1; col. 7, lines 15-19). Each dispenser transceiver 22 is instructed or polled to determine the presence of a receptacle dispenser 50 (col. 8, lines 15-19).

Such dispenser transceiver determining whether a receptacle transceiver is in sufficient proximity of the dispenser to begin a transaction; the receptacle transceiver is mounted on a vehicles to facilitate radio communication with the dispenser transceiver; and the dispenser transceiver is instructed or polled to determine the presence of a receptacle dispenser are considered a vehicle presence detector.

Applicant remarks that Ghorayeb does not disclose "automatically setting a timer and detecting the vehicle while said timer is running".

The Examiner does not agree. Ghorayeb does teach "automatically setting a timer". The Examiner notes that the Applicant's specification does recite the phrase "automatically setting a timer". Ghorayeb teaches a timing meter device 20 (paragraph 22). Ghorayeb further teaches the resetting of the timing meter device upon departure of the user's vehicle (paragraph 8). The timing meter device 20 includes a computer memory 22 controlled by the microprocessor 24 which is coupled to and directs the operation of a re-settable timer counter 26 (paragraph 26; Figure 3).

Such resetting of the timing meter device upon departure of the user's vehicle, wherein the timing meter device includes a computer memory controlled by the microprocessor which is coupled to and directs the operation of a re-settable timer counter are considered "automatically setting a timer and detecting the vehicle while said timer is running".

Ghorayeb teaches "detecting the vehicle while said timer is running". Ghorayeb teaches a timing meter system which includes a motion or proximity detector (paragraph 26). The motion or proximity detector detects that the vehicle has departed, the display of the timing meter device may be turned off or be directed to change the light to the red color. Likewise, if the timed vehicle leaves and a different vehicle enter the protected parking spot, any time remaining on the timer will be canceled and the display will indicate red until the new user is parked at the location. (Paragraph 41) The length of time the user is parked is in response to a signal from the motion or proximity detector

that the user's vehicle has left the parking location monitored by the timing meter device (paragraph 8). The Examiner notes, language that does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997).

Such motion or proximity detector detects that the vehicle has departed, the display of the timing meter device may be turned off or be directed to change opt the red color; detects if the timed vehicle leaves and a different vehicle enters the protected parking spot, any time remaining on the timer will be canceled and the display will indicate red until the new user is parked at the location; and the length of time the user is parked is in response to a signal from the motion or proximity detector that the user's vehicle has left the parking location monitored by the timing meter device are considered detecting "the vehicle while said timer is running".

Applicant remarks that "Ghorayeb does not disclose if the timer has been exceeded, determining that the vehicle is stationary".

The Examiner does not agree. Ghorayeb teaches an electronic timing meter device adapted for metering the length of time that a user utilizes a parking location corresponding to a timing meter device (paragraph 22). The Examiner is interpreting the word "parked" or "parking" as stationary. The timing meter system includes a motion or proximity detector (Fig.1). The motion or proximity detector detects the vehicle that arrives at the particular location next to the timing meter device. The

electronic timing meter device starts the counter to record the length of time the user is parked. (Paragraph 8) Information is stored in the timing meter which includes the maximum duration that each user is allowed to park at a certain location and the restrictions (paragraph 11). The timing meter device keeps checking the time that has elapsed for the parked car (paragraph 30).

Such an electronic timing meter device adapted for metering the length of time that a user utilizes a parking location corresponding to a timing meter device; motion or proximity detector detects the vehicle that arrives at the particular location next to the timing meter device; electronic timing meter device starts the counter to record the length of time the user is parked; information is stored in the timing meter which includes the maximum duration that each user is allowed to park at a certain location and the restrictions; and timing meter device keeps checking the time that has elapsed for the parked car are considered "if the timer has been exceeded, determining that the vehicle is stationary".

Applicant remarks that "Examiner has not demonstrated a motivation to combine the vehicle detector in Ghorayeb with the fuel pump in Janning. Janning does not disclose or suggest the need to detect a stationary vehicle.

The Examiner does not agree. Ghorayeb was cited for teaching "detect a stationary vehicle". In response to applicant's remark that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so

found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation is found in Ghorayeb paragraph 41, to detect the vehicle that arrives at a particular location next to the timing meter device, thus producing a signal which activates the timing meter device indicating that the vehicle is legal.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARISSA THEIN whose telephone number is (571)272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. Ryan Zeender/
Supervisory Patent Examiner, Art
Unit 3627

Mtot /M. T./
Examiner, Art Unit 3627
August 12, 2008